

Department of Health and Human Services

§ 73.735–902

60 days in a calendar year) whose positions are classified at GS–16 or above of the General Schedule, or whose basic rate of pay (excluding “step” increases) under other pay schedules is equal to, or greater than, the rate for GS–16 (step 1);

(2) Members of the uniformed services whose pay grade is 0–7 or above;

(3) Officers and employees in any other positions determined by the Director of the Office of Government Ethics to be of equal classification to GS–16;

(4) Administrative Law Judges;

(5) Employees in the excepted service in positions which are of a confidential or policy-making character, unless their position has been excluded by the Director of the Office of Government Ethics;

(6) Department Ethics Counselor; and

(7) Deputy Ethics Counselors.

An employee who thinks that his or her position has been improperly included under the reporting requirements of this part may obtain a review of that determination by writing to the Department Ethics Counselor.

(b) *Filing Dates.* Employees listed in § 73.735–901 (a) of this subpart shall file a financial disclosure report:

(1) Within 5 days after the transmittal by the President to the Senate of their nomination to a position requiring Senate confirmation, or

(2) Within 30 days after assuming a covered position not requiring Senate confirmation unless the employee has left another covered position listed in § 73.735–901 (a) of this subpart, or

(3) Within 30 days after terminating Federal employment or assuming a position which is not listed in § 73.735–901 (a) of this subpart; and

(4) By May 15 of each calendar year, unless the employee has in that calendar year already submitted a financial disclosure report covering the preceding calendar year.

(c) *Submission of reports.* (1) Executive level officers, non-career executives, deputy ethics counselors and Schedule C employees in the Office of the Secretary who are required to report in accordance with § 73.735–901 (a) of this subpart shall submit their reports to the Department Ethics Counselor.

(2) All other employees required to report in accordance with § 73.735–901 (a) of this subpart shall submit their reports to the reviewing official for their organizational component under procedures described in the Department’s Personnel Manual. Personnel offices will keep a list of reviewing officials and will give each covered employee the name of the official to whom his or her report should be sent.

(d) *Review and certification of reports.*

(1) Each report submitted in accordance with this section shall be reviewed by the appropriate reviewing official within 60 days of its receipt. Upon reviewing a report and finding that the information contained therein reveals no conflict of interest or other violation of any provision of this part or applicable law, the reviewing officer shall certify the report with his or her signature.

(2) The certification of a report filed in accordance with this section shall have the concurrence of the Office of the General Counsel.

(3) Action to be taken by the reviewing official if the individual is not in compliance with applicable laws and regulations is discussed in § 73.735–903 and § 73.735–904.

§ 73.735–902 Reporting requirements for certain employees not covered by the Ethics in Government Act of 1978.

(a) *Applicability.* The following employees and special Government employees shall submit confidential statements of employment and financial interests in accordance with the provisions of this subpart, provided they are not required to submit financial disclosure reports under § 73.735–901. A list of the positions in this Department whose incumbents are required to file financial interest statements as prescribed by this subpart is available for review in all of the Departments servicing personnel offices.

(1) Officers and employees in positions classified at GS–13 or above (or comparable pay level) who have decision-making responsibility for the following matters:

- (i) Contracting or procurement,
- (ii) Administering or monitoring grants or subsidies,

§ 73.735–903

(iii) Regulating or auditing private or other non-Federal enterprises, or

(iv) Other activities where the decision or action would have an economic impact on the interest of any non-Federal enterprise.

(2) Incumbents of any other positions designated by the head of the principal operating component, or by the Assistant Secretary for Management and Budget for the Office of the Secretary, to report employment and financial interests in order to protect the integrity of the Government and to avoid possible conflicts of interest. The designation of any such positions below the GS-13 grade must be approved by the Office of Personnel Management.

(3) All experts, consultants, or advisory committee members who are not required to submit a public financial disclosure report in accordance with the Ethics in Government Act except:

(i) Doctors, dentists and allied medical specialists performing services for, or consulted as to the diagnosis or treatment of, individual patients; or

(ii) Veterinarians performing services for or consulted as to care and service to animals.

(b) *Filing dates.* (1) Experts, consultants, and advisory committee members shall file a confidential Statement of Employment and Financial Interest no later than the date employment commences and shall file supplemental statements as necessary to keep all information submitted current and accurate.

(2) Other individuals covered by § 73.735–902 (a) of this subpart shall:

(i) File a confidential statement no later than 30 days after assuming a covered position unless the employee, within 30 days before assuming the position, left another covered position in HHS that is included in § 73.735–901(a) or § 73.735–902(a) of this subpart; and

(ii) Report changes in or additions to the information in the statement as of June 30 of each calendar year, or a different date set by employee's component with authorization by the Office of Personnel Management.

(c) *Submission and review of financial statements.* (1) Heads of principal operating components, the Assistant Secretary for Management and Budget, and principal regional officials for em-

45 CFR Subtitle A (10–1–02 Edition)

ployees under their appointing authority shall establish procedures to ensure that financial statements from covered employees are received and updated on a timely basis and are referred to the appropriate reviewing officials for review and certification. (See § 73.735–202 (e)(1)).

(2) The reviewing official shall review statements to determine whether conflicts of interest or apparent conflicts might arise from the activities reported thereon. If the review discloses no conflict or apparent conflict, the reviewing official shall certify the statement with his or her signature. Action to take if the individual is not in compliance with applicable laws and regulations is discussed in § 73.735–903 and § 73.735–904.

§ 73.735–903 Action if conflicts of interest or possible conflicts are noted.

(a) If after reviewing a financial disclosure report or a financial interest statement, a reviewing official believes that additional information is needed, he or she shall tell the individual submitting such report what additional information is required and the time by which it must be submitted.

(b) If the reviewing official is of the opinion that, on the basis of information submitted, the reporting individual is not in compliance with applicable laws and regulations, he or she shall notify the individual, afford him or her a reasonable opportunity for a written or oral response, and after consideration of such response, determine whether or not the individual is in compliance.

(c) If the reviewing official determines that an individual is not in compliance with applicable laws and regulations, he or she shall notify the individual of that determination in writing and, after an opportunity for personal consultation, determine and notify the individual of the action, including those actions set forth in § 73.735–904, that would be appropriate to assure compliance with such laws and regulations, and the date by which such action should be taken. The action required and the date for taking it shall be determined by the nature of the financial interest or other relationship,